

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

HERBERT ISAAC PERKINS,

Petitioner,

v.

Nos. 1:16-cv-00714-KWR-JHR
1:07-cr-01010-KWR-1

UNITED STATES OF AMERICA,

Respondent.

**ORDER DENYING ISSUANCE
OF A CERTIFICATE OF APPEALABILITY**

THIS MATTER comes before the Court on the Tenth Circuit's limited remand to consider whether to issue a certificate of appealability. To obtain a certificate, Perkins must make "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). This requires Perkins to "sho[w] that reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issue presented was 'adequate to deserve encouragement to proceed further.'" *Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003) (alteration in original) (quoting *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)).

U.S. Magistrate Judge Jerry H. Ritter recommended that a certificate of appealability be denied [Doc. 20, p. 7], and the Court adopted Magistrate Judge Ritter's recommendations. [Doc. 27, p. 5]. Furthermore, reasonable jurists could not debate (1) that the Tenth Circuit's partial authorization does not contain any language authorizing review of the Hobbs Act robbery conviction, and (2) that *Melgar-Cabrera*¹ and *Manzanares*² are binding in this case and precludes relief. Therefore, the Court denies issuing a certificate of appealability.

¹ *United States v. Melgar-Cabrera*, 892 F.3d 1053 (10th Cir. 2018).

² *United States v. Manzanares*, 956 F.3d 1220 (10th Cir. 2020).

IT IS SO ORDERED.



KEA W. RIGGS
UNITED STATES DISTRICT JUDGE